STATE OF NEW YORK
COUNTY COURT COUNTY OF MONROE

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

AFFIDAVIT IN OPPOSITION

SUSAN DAVID, LYN GALLO, MARILYN HILLER, GAIL NIESNER, KATHLEEN REILLY, RAMONA SANTORELLI, SARA WELLS-HIMES,

Defendants.

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

ALAN CRUIKSHANK, being duly sworn, deposes and says:

1. I am an attorney admitted to practice in New York State and an Assistant District Attorney for the County of Monroe. I make this affidavit in opposition to defendants' motion for access to or funds for transcripts on appeal.

2. Paragraphs three (3) through eight (8) of this affidavit are based upon information and belief, the sources of which are the files of the Monroe County District Attorney's Office and conversations with Monroe County Court.

3. On or about June 24, 1989, defendants were charged in the City of Rochester, Monroe County, New York, with the violation of Exposure of a Person (Penal Law, § 245.01).

4. On or about December 11, 1989, following a bench trial in Rochester City Court (Regan, J.), defendants were found guilty as charged.

5. Judgments of conviction were entered on December 13, 1989. All defendants were given a one year conditional discharge. Defendants David, Gallo, Hiller, Niesner and Wells-Himes were fined $50 plus a $25 penalty assessment. Defendant Reilly was fined $100 plus a $25 penalty assessment. Defendant Santorelli was sentenced to perform 24 hours of community service and resentenced to pay a fine of $50 plus a $25 penalty assessment.

6. Defendants' Notice of Appeal was received by Monroe County Court on February 13, 1990 and by the Monroe County District Attorney's Office on February 14, 1990.

7. Defendants have never filed with Monroe County Court, as the intermediate appellate court, or with the Monroe County District Attorney's Office, a motion for leave to appeal as poor persons (CPLR, § 1101).

8. As defendants have not been granted poor persons status they are precluded from access to or funds for transcripts on appeal (CPLR, § 1102).

WHEREAS, defendants have never sought nor been granted poor persons status, we respectfully urge that access to or funds for transcripts on appeal BE DENIED.

ALAN CRUIKSHANK
Assistant District Attorney

Sworn to before me this 16th day of October, 1990.

NOTARY PUBLIC

DOROTHY J. PONTES
Notary Public in the State of New York
MONROE COUNTY, N.Y.
Commission Expires Dec. 31, 1991